

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

REQUEST FOR CONFIDENTIAL TREATMENT OF)	
INFORMATION FILED WITH DELTA NATURAL)	
GAS COMPANY, INCORPORATED'S SPECIAL)	CASE NO. 94-028
TRANSPORTATION CONTRACT WITH ALCAN)	
ROLLED PRODUCTS)	

O R D E R

This matter arising upon a joint petition of Delta Natural Gas Company, Inc. ("Delta") and Alcan Rolled Products Company, a division of Alcan Aluminum Corporation ("Alcan"), filed February 23, 1994, pursuant to 807 KAR 5:001, Section 7, for confidential protection of the contract term and price provisions contained in the gas supply agreement between the parties on the grounds that disclosure of the information is likely to cause competitive injury, and it appearing to this Commission as follows:

On January 12, 1994, the parties executed an agreement under the terms of which Delta agreed to furnish Alcan natural gas for use in Alcan's recycling plant in Berea. Under the terms of the contract, Delta and Alcan agreed not to divulge the terms and conditions to any third party unless required by law, court order, or the order or regulation of any administrative agency having jurisdiction over either party. In accordance with the confidentiality provisions of the contract, a copy of which has been filed with this Commission, Delta and Alcan request that the

Commission protect as confidential the term of the agreement and purchase price for the gas.

KRS 61.872(1) requires information filed with the Commission to be available for public inspection unless specifically exempted by statute. Exemptions from this requirement are provided in KRS 61.878(1). That section of the statute exempts 11 categories of information. One category exempted in subparagraph (c) of that section is commercial information confidentially disclosed to the Commission. To qualify for that exemption, it must be established that disclosure of the information is likely to cause substantial competitive harm to the party from whom the information was obtained. To satisfy this test, the party claiming confidentiality must demonstrate actual competition and a likelihood of substantial competitive injury if the information is disclosed. Competitive injury occurs when disclosure of the information gives competitors an unfair business advantage. Although rates are generally made public, the Commission has found that their disclosure could cause competitive injury in instances where the petitioner alleged that disclosure would lead to the threat of customers bypassing its system. Delta has made no such allegation in this case and this petition should be denied.

This Commission being otherwise sufficiently advised,

IT IS ORDERED that:

1. The petition to protect as confidential the term and price provisions of the contract between Alcan and Delta, which

Alcan and Delta have petitioned be withheld from public disclosure,
be and is hereby denied.

2. The information sought to be protected shall be held and retained by this Commission as confidential and shall not be open for public inspection for a period of 20 days from the date of this Order, at the expiration of which it shall be placed in the public record.

Done at Frankfort, Kentucky, this 8th day of December, 1994.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director